

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL BUSINESS MACHINES)
CORPORATION,)
)
Plaintiff,) C.A. No. 16-122-LPS
)
v.)
)
GROUPON, INC.)
)
Defendant.)

[PROPOSED] ORDER

Having considered Plaintiff International Business Machines Corporation’s (“IBM”) November 8, 2017 request for relief pursuant to the Court’s November 1, 2017 Oral Order, and based on Groupon, Inc.’s (“Groupon”) recent disclosure of its Spinning the Web and Amazon 1995 Website invalidity theories asserted against U.S. Patent No. 5,961,601 (the “‘601 patent”), the Court has determined that IBM’s requested relief should be GRANTED.

Accordingly, IT IS HEREBY ORDERED that:

1. IBM is granted leave to pursue additional discovery relevant to Groupon’s “Spinning the Web” and “Amazon 1995 Website” prior art theories, up to and including December 6, 2017.
2. Groupon shall make Mr. Paul Davis available for deposition on November 16, 2017.
3. Should Groupon identify Mr. Yuval Fisher as a trial witness on its pretrial disclosures, Groupon shall make Mr. Fisher available for deposition no later than two weeks after the parties submit their proposed pretrial order.

4. IBM is granted leave to serve a supplemental report on the issue of validity of the '601 patent to address Groupon's "Spinning the Web" and "Amazon 1995 Website" prior art theories no later than December 6, 2017.
5. Groupon shall serve any reply report in response to any supplemental report no later than December 13, 2017.
6. Groupon shall pay costs equal to the fees and expenses incurred for IBM's experts' review of the "Amazon 1995 Website" source code at Fenwick's office in San Francisco, California up to and including December 6, 2017.

SO ORDERED, this _____ day of _____, 2017.

THE HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT CHIEF JUDGE

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